

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:13-cv-306-FDW**

STUART WAYNE TOMPKINS,)
)
 Plaintiff,)
)
 v.)
)
DUANE TERRELL, et al.,)
)
 Defendants.)
_____)

ORDER

THIS MATTER is before the Court on consideration of Plaintiff's motion for leave to filed an amended complaint, which he filed pursuant to 42 U.S.C. § 1983, his motion for relief from judgment, and his motion for a temporary restraining order. (Doc. Nos. 20-21). Plaintiff dates his motion for leave to amend and relief from judgment on January 16, 2014, and it is post-marked on January 17, 2014.

On December 11, 2013, this Court dismissed Plaintiff's § 1983 complaint following an initial review under 28 U.S.C. § 1915A. The Court found that Plaintiff, while a prisoner of the State of North Carolina, had filed three or more § 1983 complaints and been allowed to proceed without prepayment of fees in at least three of those cases. Three or more of these complaints had been dismissed as either being frivolous or for failure to state a claim for relief and the cases were final either because the time for taking appeal from the judgments had expired or the Fourth Circuit had affirmed the dismissal and the time for seeking further review had expired. Further, the Court found that Plaintiff had presented no allegations that he was in imminent danger thus he could not proceed with his § 1983 complaint without first submitting the full filing fee.

Plaintiff's complaint was therefore dismissed under the provisions of 28 U.S.C. § 1915(g). As an alternative ground for dismissal, the Court found that Plaintiff failed to state a claim for relief in his complaint. (Doc. No. 11: Order of Dismissal). The findings and conclusions from this Order of Dismissal are fully incorporated herein.

On January 16, 2014, and on the very day that Plaintiff dated his motion for relief in Doc. No. 21, this Court entered an Order denying Plaintiff's previously filed motion to amend his complaint. The findings and conclusions from that Order are incorporated herein by reference. (Doc. No. 19).

In the most recent motion, Plaintiff appears to include the same allegations regarding his denial of access to send and receive mail by prison authorities. For the reasons stated in the Court's previous orders, Doc. Nos. 11 and 19, Plaintiff's motion for leave to amend his complaint and for relief from judgment will be denied.

IT IS, THEREFORE, ORDERED that Plaintiff's motions for leave to amend his complaint and for relief from judgment are **DENIED**. (Doc. No. 21).

IT IS FURTHER ORDERED that Plaintiff's motion for a temporary restraining order is **DISMISSED** as moot. (Doc. No. 20).

Signed: January 24, 2014


Frank D. Whitney
Chief United States District Judge

